



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Assembly Bill 729

**Senate Substitute
Amendment 2**

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Under *current law*, at the federal level, telecommunications is governed by common carrier regulation under Title II of the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996 (the 1996 Act). The 1996 Act restructured local telephone markets to promote competition. Under the 1996 Act, in general, large telephone companies in existence prior to the restructuring, known as incumbent local exchange carriers (ILECs), are required to share their local exchange networks with competitors, known as competitive local exchange carriers (CLECs), and must negotiate an interconnection agreement with a requesting CLEC that allows the CLEC to interconnect with the ILEC's local exchange network. ILECs provide CLECs with open access to their local exchange network by unbundling what are referred to in the bill as "network or service elements." In general, federal law directs the Federal Communications Commission (FCC) to determine which elements are required to be unbundled, and the Public Service Commission (PSC) to provide guidance on what cost-based wholesale rates ILECs can charge CLECs in interconnection agreements for the unbundled elements, within regulatory parameters established by the FCC. This PSC guidance on cost-based wholesale rates for specific unbundled elements is an important reference during the negotiation process between a CLEC and ILEC, which can include arbitration before the PSC, to establish an interconnection agreement.

Senate Substitute Amendment 2 (the amendment) allows a telecommunications provider, including an "alternative telecommunications utility" such as a CLEC, to file a petition with the PSC to determine rates and costs of unbundled network elements or unbundled service elements under federal or state law. (Such a petition could occur in response, for example, to a change in projected costs since the prior time the PSC undertook such a docket.) Under the amendment, the PSC's treatment of such a petition would be unrelated to the PSC's treatment of any petition for arbitration that might occur, such as a petition for arbitration while negotiating wholesale rates for unbundled elements in an interconnection agreement between a CLEC and ILEC.

The amendment addresses petition requirements and the PSC completeness determination, timeframes for PSC final decisions, and requirements for a final PSC decision as follows:

Petition Requirements and PSC Completeness Determination

The amendment establishes criteria that the PSC must use in determining whether a petition for rates and costs of unbundled elements (the petition) is complete, and requires the PSC to make a completeness determination no later than 30 days after the date on which the petition is filed. If the PSC fails to meet this deadline, the petition is considered to be complete. If the PSC meets the deadline but determines that the petition is incomplete, the PSC must state the reason and identify the information needed to complete the petition. The amendment allows a petitioner to supplement such a petition, in which case the PSC must determine whether the supplemented petition is complete using specified criteria no later than 15 days after it is filed. Again, if the PSC fails to meet this deadline, the petition is considered to be complete, and if the PSC meets the deadline but determines that the petition is incomplete, the PSC must state the reason and identify the needed information. There is no limit on the number of times that a petitioner may supplement the petition.

The amendment requires the petitioner to provide a copy of the petition or supplemented petition to any other telecommunications provider that may be affected by the petition at the same time that the petition is filed or supplemented, and allows an affected telecommunications provider to respond to the petition and provide the PSC any additional information.

Timeframes for PSC Final Decisions

The amendment establishes timeframes for PSC final decisions based on how many rates the petition is requesting the PSC to determine.

- 100 or fewer rates: If the petition is requesting the PSC to determine 100 or fewer rates, the amendment requires the PSC to enter a final decision on the petition within a 180-day period after the date on which the petition is determined or considered complete, unless there is an extension. An extension can happen either by mutual agreement between the petitioner and the PSC, if such agreement occurs within the 180-day period, or by the PSC petitioning the Dane County Circuit Court for an extension of up to 60 days, if such petition occurs within the 180-day period or within a prior extension by mutual agreement between the petitioner and the PSC. The PSC cannot receive more than one extension by petitioning the Dane County Circuit Court.
- More than 100 rates: If the petition is requesting the PSC to determine more than 100 rates, the previous bulleted paragraph applies except that the 180-day period is extended to a 270-day period, and a Dane County Circuit Court extension can be for up to an additional 90 days rather than 60 days.

Requirements for a Final PSC Decision

The amendment allows the PSC to reject the petition, grant the petition, or approve a petition with modifications or conditions. The PSC must issue a final decision that determines rates for the unbundled network elements and unbundled service elements specified in the petition, except to the extent that the evidence in the record is not sufficient for making such a determination with respect to a particular rate, unbundled network element, or unbundled service element.

Legislative History

On February 4, 2004, Senate Substitute Amendment 2 to 2003 Assembly Bill 729 was offered by Senator Leibham and others and was adopted by voice vote in the Senate. On the same day, the Senate passed 2003 Assembly Bill 729, as amended, by a vote of Ayes, 30, Noes, 3.

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